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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Case No. **'16CV0732 CAB JMA**

COMPLAINT

Trial Date: None Set

BROADCAST MUSIC, INC.; CINDERFUL
MUSIC; UNIVERSAL-SONGS OF
POLYGRAM INTERNATIONAL, INC.; AL
GREEN MUSIC, INC.; RONDOR MUSIC
INTERNATIONAL, INC. d/b/a IRVING
MUSIC; GIBB BROTHERS MUSIC;
CROMPTON SONGS, LLC; TREMONTI
STAPP MUSIC; RESERVOIR MEDIA
MANAGEMENT INC. d/b/a RESERVOIR 416
a/k/a RESERVOIR ONE AMERICA;
UNIVERSAL MUSIC-Z TUNES LLC d/b/a
UNIVERSAL MUSIC Z SONGS; SONY/ATV
SONGS LLC d/b/a SONY/ATV TREE
PUBLISHING; NASHVILLE STAR MUSIC, a
division of REVEILLE PUBLISHING LLP;
CARNIVAL MUSIC COMPANY d/b/a
TILTAWHIRL MUSIC; BMG RIGHTS
MANAGEMENT (US) LLC d/b/a BMG
PLATINUM SONGS (US),

Plaintiffs,

v.

TRAVPITBULL, LLC d/b/a THE SADDLE
BAR, and MICHAEL ALAN GARCIA; TOM
WILLIAM VAN BETTEN; and MATTHEW
CRAIG WEAVER, each individually

Defendants.

1 Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on
2 knowledge as to Plaintiffs; otherwise on information and belief):

3 **JURISDICTION**

4 1. This is a suit for copyright infringement under the United States Copyright Act of
5 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has
6 jurisdiction pursuant to 28 U.S.C. Section 1338(a).

7 **VENUE**

8 2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

9 **THE PARTIES**

10 3. Plaintiff Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under
11 the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250
12 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public
13 performance rights in approximately 10.5 million copyrighted musical compositions (the "BMI
14 Repertoire"), including those which are alleged herein to have been infringed.

15 4. The Plaintiffs other than BMI are the owners of the copyrights in the musical
16 compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ.
17 P. 17(a) and 19(a).

18 5. Plaintiff Cinderful Music is a sole proprietorship owned by William Patrick
19 Corgan. This Plaintiff is the copyright owner of at least one of the songs in this matter.

20 6. Plaintiff Universal – Songs of Polygram International, Inc. is a corporation. This
21 Plaintiff is the copyright owner of at least one of the songs in this matter.

22 7. Plaintiff Al Green Music, Inc. is a corporation. This Plaintiff is the copyright
23 owner of at least one of the songs in this matter.

24 8. Plaintiff Rondor Music International, Inc. is a corporation doing business as Irving
25 Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

26 9. Plaintiff Gibb Brothers Music is a partnership owned by Estate of Maurice Ernest
27 Gibb and Estate of Robin Gibb. This Plaintiff is the copyright owner of at least one of the songs
28 in this matter.

10. Plaintiff Crompton Songs, LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Tremonti Stapp Music is a partnership owned by Scot A. Stapp and Mark T. Tremonti. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Plaintiff Reservoir Media Management, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

13. Plaintiff Universal Music-Z Tunes LLC is a limited liability company doing business as Universal Music Z Songs. This Plaintiff is the copyright owner of at least one of the songs in this matter.

14. Plaintiff Sony/ATV Songs LLC is a limited liability company doing business as Sony/ATV Tree Publishing. This Plaintiff is the copyright owner of at least one of the songs in this matter.

15. Plaintiff Nashville Star Music is a division of Reveille Music Publishing LLP which is a limited liability partnership. This Plaintiff is the copyright owner of at least one of the songs in this matter.

16. Plaintiff Carnival Music Company is a corporation doing business as Tiltawhirl Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

17. Plaintiff BMG Rights Management (US) LLC is a limited liability company doing business as BMG Platinum Songs (US). This Plaintiff is the copyright owner of at least one of the songs in this matter.

18. Defendant Travpitbull, LLC is a limited liability company organized and existing under the laws of the State of California which operates, maintains and controls an establishment known as The Saddle Bar, located at 123 West Plaza Street, Solana Beach, California 92075, in this district (the "Establishment").

19. In connection with the operation of the Establishment, Defendant Travpitbull LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

20. Defendant Travpitbull, LLC has a direct financial interest in the Establishment.

21. Defendants Michael Alan Garcia, Tom William Van Betten, and Matthew Craig Weaver are members of Defendant Travpitbull, LLC with responsibility for the operation and management of that limited liability company and the Establishment.

22. Defendants Michael Alan Garcia, Tom William Van Betten, and Matthew Craig Weaver have the right and ability to supervise the activities of Defendant Travpitbull, LLC and a direct financial interest in that limited liability company and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

23. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 21.

24. Since May 2015, BMI has reached out to Defendants over 25 times, by phone, mail and email, in an effort to educate Defendants as to their obligations under the Copyright Act with respect to the necessity of purchasing a license for the public performance of musical compositions in the BMI repertoire. Included in the letters were Cease and Desist Notices, providing Defendants with formal notice that they must immediately cease all use of BMI-licensed music in the Establishment.

25. Plaintiffs allege seven (7) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

26. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the seven (7) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued

1 for the musical composition; Line 6 indicating the copyright registration number(s) for the musical
2 composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment
3 where the infringement occurred.

4 27. For each work identified on the Schedule, the person(s) named on Line 3 was the
5 creator of that musical composition.

6 28. For each work identified on the Schedule, on or about the date(s) indicated on Line 5,
7 the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects
8 with the requirements of the Copyright Act and received from the Register of Copyrights Certificates
9 of Registration bearing the number(s) listed on Line 6.

10 29. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff
11 BMI was (and still is) the licensor of the public performance rights in the musical composition
12 identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the
13 Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical
14 composition listed on Line 2.

15 30. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants
16 publicly performed and/or caused to be publicly performed at the Establishment the musical
17 composition identified on Line 2 without a license or permission to do so. Thus, Defendants have
18 committed copyright infringement.

19 31. The specific acts of copyright infringement alleged in the Complaint, as well as
20 Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable
21 damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire
22 at the Establishment, Defendants threaten to continue committing copyright infringement. Unless
23 this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will
24 suffer irreparable injury for which they have no adequate remedy at law.

25 WHEREFORE, Plaintiffs pray that:

26 (I) Defendants, their agents, servants, employees, and all persons acting under their
27 permission and authority, be enjoined and restrained from infringing, in any manner, the
28 copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

1 (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C.
2 Section 504(c);

3 (III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant
4 to 17 U.S.C. Section 505; and

5 (IV) Plaintiffs have such other and further relief as is just and equitable.
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7 DATED: March 28, 2016

COBLENTZ PATCH DUFFY & BASS LLP

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9 By: /s/ Charmaine G. Yu
10 Charmaine G. Yu
11 Attorneys for Broadcast Music, Inc., et al.
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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	1979
Line 3	Writer(s)	William Patrick Corgan
Line 4	Publisher Plaintiff(s)	William Patrick Corgan, an individual dba Cinderful Music
Line 5	Date(s) of Registration	1/29/96
Line 6	Registration No(s).	PA 773-963
Line 7	Date(s) of Infringement	12/31/2015
Line 8	Place of Infringement	The Saddle Bar

Line 1	Claim No.	2
Line 2	Musical Composition	Brown Eyed Girl
Line 3	Writer(s)	Van Morrison
Line 4	Publisher Plaintiff(s)	Universal - Songs of Polygram International, Inc.
Line 5	Date(s) of Registration	5/2/67
Line 6	Registration No(s).	Eu 993451
Line 7	Date(s) of Infringement	12/30/2015
Line 8	Place of Infringement	The Saddle Bar

Line 1	Claim No.	3
Line 2	Musical Composition	Stayin' Alive a/k/a Staying Alive
Line 3	Writer(s)	Barry Gibb; Robin Gibb; Maurice Gibb
Line 4	Publisher Plaintiff(s)	Estate of Maurice Ernest Gibb and the Estate of Robin Gibb d/b/a Gibb Brothers Music; Barry Alan Gibb, an individual d/b/a Crompton Songs
Line 5	Date(s) of Registration	3/7/77 2/13/78 3/19/84 3/19/84
Line 6	Registration No(s).	Eu 761684 PA 178 PA 209-625 PAu 618-264
Line 7	Date(s) of Infringement	12/30/2015
Line 8	Place of Infringement	The Saddle Bar

Line 1	Claim No.	4
Line 2	Musical Composition	Arms Wide Open aka With Arms Wide Open
Line 3	Writer(s)	Scott Stapp; Mark Tremonti
Line 4	Publisher Plaintiff(s)	Scott A. Stapp and Mark T. Tremonti, a partnership d/b/a Tremonti Stapp Music; Reservoir Media Management Inc. d/b/a Reservoir 416 a/k/a Reservoir One America
Line 5	Date(s) of Registration	8/26/99
Line 6	Registration No(s).	PAu 2-427-758
Line 7	Date(s) of Infringement	12/31/2015
Line 8	Place of Infringement	The Saddle Bar

Line 1	Claim No.	5
Line 2	Musical Composition	Ignition
Line 3	Writer(s)	Robert Kelly a/k/a R. Kelly
Line 4	Publisher Plaintiff(s)	Universal Music-Z Tunes LLC d/b/a Universal Music Z Songs
Line 5	Date(s) of Registration	2/4/03
Line 6	Registration No(s).	PA 1-130-236
Line 7	Date(s) of Infringement	12/30/2015
Line 8	Place of Infringement	The Saddle Bar

Line 1	Claim No.	6
Line 2	Musical Composition	Gun Powder And Lead a/k/a Gunpowder And Lead
Line 3	Writer(s)	Miranda Lambert; Heather Little
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC d/b/a Sony/ATV Tree Publishing; Nashville Star Music, a Division of Reveille Music Publishing LLP; Carnival Music Company d/b/a Tiltawhirl Music
Line 5	Date(s) of Registration	7/2/07
Line 6	Registration No(s).	PA 1-387-084
Line 7	Date(s) of Infringement	12/30/2015
Line 8	Place of Infringement	The Saddle Bar

Line 1	Claim No.	7
Line 2	Musical Composition	Bulletproof
Line 3	Writer(s)	Eleanor Jackson; Benedict Langmaid
Line 4	Publisher Plaintiff(s)	BMG Rights Management (US) LLC d/b/a BMG Platinum Songs (US)
Line 5	Date(s) of Registration	5/17/10
Line 6	Registration No(s).	PA 1-684-808
Line 7	Date(s) of Infringement	12/31/2015
Line 8	Place of Infringement	The Saddle Bar
